

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 1

Filed by: Sally C. Medley
Administrative Patent Judge
Box Interference
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Filed
1 November 2000

UNITED STATES PATENT AND TRADEMARK OFFICE **MAILED**

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

NOV - 1 2000

PAUL O. DETWILER, BARRY M. MERGENTHALER
and HONG TANG

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Junior Party,
(Patent 5,684,289),

v.

MOHAN L. BOBBA, JORGE L. ACOSTA, TIMOTHY J. EUSTERMAN,
JAMES W. RING, and ALEXANDER McQUEEN

Senior Party
(Application 09/078,196).

Patent Interference No. 104,631

NOTICE DECLARING INTERFERENCE
(37 CFR § 1.611)

Part A. Declaration of interference

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties.

Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

Part B. Judge designated to handle the interference
Administrative Patent Judge Sally C. Medley has been designated to handle the interference. 37 CFR § 1.610(a).

Part C. Standing order

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

Part D. Conference call to set dates

A telephone conference call to set dates for taking action in the interference is scheduled for 10:00 a.m. on January 3, 2001 (the call will be initiated from the PTO).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See § 17 of the STANDING ORDER.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE.

Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some mutual agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a shorter or longer period.

Part E. The parties involved in this interference are:

Junior Party

Named inventors: Paul O. Detwiler, Lawrenceville, GA
Barry M. Mergenthaler, Lawrenceville, GA
Hong Tang, Suwanee, GA

Patent: U.S. Patent 5,684,289,
granted 4 November 1997,
based on application 08/550,150,
filed 30 October 1995

Title: Optical scanner having enhanced item
side coverage

Assignee: NCR Corporation

Accorded Benefit: none

Attorneys: See last page

Address: See last page

Senior Party

Named Inventors: Mohan L. Bobba, Eugene OR
Jorge L. Acosta, Eugene, OR
Timothy J. Eusterman, Plano, TX
James W. Ring, Eugene, OR
Alexander McQueen, Eugene, OR

Application: Application 09/078,196
filed 13 May 1998

Title: Multiple plane scanning system for data
reading applications

Assignee: Spectro-Physics Scanning Systems, Inc.

Accorded Benefit: Application 08/806,194,
filed 26 February 1997

Application 08/554,819,
filed 7 November 1995

Application 08/155,112,
filed 19 November 1993

Attorneys: See last page

Address: See last page

Part F. Counts and claims of the parties

Count 1

Claim 14 of 09/078,196

or

Claim 18 of 5,684,289

The claims of the parties are:

Detwiler: 1-35

Bobba: 12-18 and 52-89

The claims of the parties which correspond to Count 1 are:

Detwiler: 11-20

Bobba: 12-18 and 59-69

The claims of the parties which do not correspond to Count 1
are:

Detwiler: 1-10 and 21-35

Bobba: 52-58 and 70-89

Count 2

Claim 52 of 09/078,196

or

Claim 1 of 5,684,289

The claims of the parties are:

Detwiler: 1-35

Bobba: 12-18 and 52-89

The claims of the parties which correspond to Count 2 are:

Detwiler: 1-10, 21 and 33-35

Bobba: 52-58 and 70-89

The claims of the parties which do not correspond to Count 2 are:

Detwiler: 11-20 and 22-32

Bobba: 12-18 and 59-69

The claims of the parties which do not correspond to either Count 1 or Count 2 are:

Detwiler: 22-32

Bobba: none

Part G. Heading to be used on papers

The following heading shall be used on papers filed in the interference. See § 18 of the STANDING ORDER.

Paper ____¹

Filed on behalf of [name of party]

By: Name of lead counsel, Esq.

Name of backup counsel, Esq.

Street address

City, State, and Zip-Code

Tel:

Fax: /

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

(Administrative Patent Judge Sally C. Medley)

PAUL O. DETWILER, BARRY M. MERGENTHALER
and HONG TANG

Junior Party,
(Patent 5,684,289),

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MOHAN L. BOBBA, JORGE L. ACOSTA, TIMOTHY J. EUSTERMAN,
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(Application 09/078,196).

Patent Interference No. 104,631

TITLE OF PAPER

¹ Leave a blank line because the board assigns the paper number.

Part H. Summary of dates for taking action

Times for taking action are set out in the following sections of the STANDING ORDER:

1. § 7: date for identifying lead and backup counsel.
2. § 8: date for identifying any real party in interest.
3. § 9: date for requesting copies of involved and benefit applications and patents.
4. § 17: date for filing list of proposed preliminary motions.
5. § 19: date for accomplishing certain discovery.
6. § 20: date for filing clean copy of claims.
7. § 21: date for filing clean copy of claims in cases with drawings and/or claims containing a means plus function limitation.
8. § 23: dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
9. § 33: date for objecting to admissibility of evidence.
10. § 34: date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
11. § 35: dates when cross-examination can take place.
12. § 45: dates for taking action with respect to settlement discussions

Part I. Order form for requesting file copies

FILE COPY REQUEST

Interference 104,631

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. _____
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box inasmuch as file copies are sent via commercial overnight courier).

Telephone, including area code: _____

Part J. Signature of administrative patent judge


SALLY MEDLEY
Administrative Patent Judge

Date: 11/1/00
Arlington, VA

Enc:

Copy of STANDING ORDER

Copy of order used for setting times for taking action in
the preliminary motion phase of the interference (ORDERPM6)

Copy of order used for setting times for taking action in
the testimony and briefing phases of the interference
(ORDERTE6)

PTO Form 850 and statement by examiner

Copy U.S. Patent 5,684,289

Copy of claims of Bobba application 09/078,196

DECLARE.007
Revised October, 2000
(replaces DECLARE.006.1)

cc (via Federal Express):

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